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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/168,072	10/08/98	MARCHESANI	N 2413-101A

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QM12/1007

EXAMINER

PIERCE, W

ART UNIT	PAPER NUMBER
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3711

DATE MAILED:

10/07/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/168,072**

Applicant(s)  
**Marchesani**

Examiner  
**William M. Pierce**

Group Art Unit  
**3711**



☒ Responsive to communication(s) filed on ids 1/11/99

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-27 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-27 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

  
**WILLIAM M. PIERCE**  
**PRIMARY EXAMINER**

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the steps of the claimed method must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Such features are commonly shown by way of a flow chart.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-5, 11, 12, 19, 20, 22, 23, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Potter et al. '295.

In Potter the "hi" hand is determined using standard poker hierarchy and the "low" hand is determined using Lowball Poker ranks.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit:

5. Claims 2, 6-10 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter in view of Shen.

Many variations of high/low games are known. Shen teaches a variation of a high/low wagering game that deals four cards split into two pairs of two would have been an obvious matter of design choice. Paying for extra and replacement cards in poker type wagering games, as called for in claim 6, is an old step. Malek is an example of one such payment in his element 11. With regards to claim 9, the amount charged is considered an obvious matter of choice. The odds payed and commissions charged are obvious matters of choice which depend upon the amount of player interest and monies generated by the game. Poker games with only single ante wagers allowed, as called for by claim 10, are old. When a dealer can draw, as called for in claim 13, and the number of cards dealt as called for in claims 14-16 are an obvious matter of choice not shown to be critical to the game by solving any particular problem or producing any unexpected results. As to claims 17 and 18, Player/banker formats to wagering games are old in order to eliminate the house participation. Note Wolf.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Potter in view of Banyai.

To have provided a bonus award dependent upon the meld of a players hand would have been obvious as taught by Banyai in order to increase player interest.

Art Unit:

7. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter in view of Lo.

Potter's layout fails to show indicia to the play of the game. It is old to provide indicia relating to the play of the game on the layout in order to remind them. Lo shows this by way of example.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hedman, Franklin, Bochichio, and Breeding show wagering games.

9. Any inquiry concerning this communication should be directed to William Pierce at E-mail address [bill.pierce@USPTO.gov](mailto:bill.pierce@USPTO.gov) or at telephone number (703) 308-3551.



**WILLIAM M. PIERCE  
PRIMARY EXAMINER**